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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF MEDICAID SERVICES

Lori A. Shibinette
Commissioner

Henry D. Lipman
Director

129 PLEASANT STREET, CONCORD, NH 03301
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February 16, 2021

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Medicaid Services, to enter into **Retroactive** agreements, Intergovernmental Transfer Agreements (IGT), with each of the counties identified in the table below. These agreements (with identical terms except dollar amounts) provide public funds totaling **$121,923,933** to enable the State of New Hampshire to compliantly draw federal financial participation consistent with federal requirements and Chapter 167 Section 167:18-a. These funds are used to help finance the costs associated with Nursing Home Per Diem and Choices For Independence (CFI) Waiver Payments pursuant to RSA 166:1-a, Reimbursement of Funds by the County and RSA 167:18-a, County Reimbursement Funds, as specified in the table below effective retroactive to January 1, 2020 through June 30, 2021, with an unlimited number of renewal options thereafter.

County	FIPS Code	Amount
County of Belknap	001	$6,947,656
County of Carroll	003	$5,359,689
County of Cheshire	005	$7,612,788
County of Coos	007	$6,506,823
County of Grafton	009	$7,247,018
County of Hillsborough	011	$37,936,703
County of Merrimack	013	$14,953,208
County of Rockingham	015	$19,623,861
County of Strafford	017	$10,332,883
County of Sullivan	019	$5,403,304
	Total:	**$121,923,933**

Funds received to support this request will be deposited into the following account for State Fiscal Year 2020 and 2021.

05-95-48-482010-21520000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: ELDERLY & ADULT SVCS, WAIVER AND NURSING FACILITIES, WAIVER/NF PMTS-COUNT PARTIC

State Fiscal Year	Title	Revenue Code	Revenue Amount
2021	Local Funds- Nursing Home	403011	$121,923,933
		Total:	**$121,923,933**

EXPLANATION

This request is **Retroactive** because the Center for Medicaid and Medicare Services exercised in mid-2020 their authority to require the counties and the state to document through a CMS approved agreement federal regulatory and statutory requirements for an IGT. The IGT was the subject of negotiation between the state and CMS and then among CMS, the state and the counties. The Department wanted to present all agreements to the Governor and Executive Council as one request and only recently received all agreements from the Counties of New Hampshire. Additionally, the Department and Counties experienced delays in business activities due to our responses to the COVID-19 Pandemic.

The purpose of these agreements is to establish the procedures under which each County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and Choices For Independence (CFI) Waiver payments including mid-level care, home support and home health under the attached agreements. The procedures set forth in the attached agreements comply with all applicable federal and State laws, rules and regulations. Funds transferred by the counties and claimed and received by the Department as the non-federal share of Medicaid expenditures will only be distributed to the aforementioned eligible programs.

Consistent with the State Plan, the CFI Waiver, the methodology included in the Exhibit As of the attached agreements, and all applicable federal and state laws, rules, and regulations, the Department will use the Intergovernmental Transfer funds transferred by each county to the Department to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

The Department will notify each county of the monthly amount of funds to transfer via IGT no later than July of each calendar year. Counties must transfer IGT funds no later than 45 days after receiving the monthly invoices from the Department.

The parties reserve the right to renegotiate and renew the IGT agreements annually for an undetermined number of years, as indicated in Subsection 4.8 of the attached agreements upon written agreement of both parties and approval from the Governor and Executive Council.

Should the Governor and Executive Council not approve this request, the State would be out of compliance with 45 CFR Part 95, Subpart A, as interpreted by the United States Department of Health and Humans Services Department Appeals Board and with 42 CFR Part 433. If the Department fails to comply with the requirements set forth in the attached agreements, the Centers for Medicare and Medicaid Services may reduce future grant awards to the Department, which would adversely impact the State's Medicaid program finance services to the people statewide who rely on the aforementioned programs.

Respectfully Submitted,

Lori Shibinette

Lori A. Shibinette
Commissioner

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Belknap (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Belknap is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

    1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

    2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

        2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$6,947,656.**

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Debra Shackett, County Administrator, 42 County Drive, Laconia, NH 03246

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of Belknap

Signature: [signature]

Print Name: Debra Shackett

Title: County Administrator

Date: 12/8/20

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.
2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.
3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.
5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Carroll (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Carroll is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$5,359,689.**

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:
FERGUS CULLEN
~~Karen Armstrong~~, 95 Water Village Road, Ossipee, NH 03864

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of CARROLL

Signature: [signature]

Print Name: Terry McCarthy

Title: Commissioner

Date: Dec. 9, 2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.
2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.
3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.
5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.
7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.
8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.
9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.
10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Cheshire (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Cheshire is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$7,612,788.**

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Chris Coates, County Administrator, 12 Court Street, Keene, NH 03431

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: _____

Print Name: Henry D. Lipman

Title: Nsd. cmhs Director

Date: 02/12/2021

County of Cheshire

Signature: _____

Print Name: Christopher Coates

Title: County Administrator

Date: 12-9-20

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.
7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.
8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.
9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.
10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Coos (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Coos is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

    1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

    2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

        2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$6,506,823**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Jennifer Fish, County Administrator, P.O. Box 10, West Stewartstown, NH 03597-0010.

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of Coos

Signature: [signature]

Print Name: Jennifer A. Fish

Title: County Administrator

Date: 11/20/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.
2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.
3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.
5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Grafton (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Grafton is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$7,247,018.**

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Julie Libby, County Administrator, 3855 Dartmouth College Hwy, North Haverhill, NH 03774

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Kenneth D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of Grafton

Signature: Julie L Libby

Print Name: Julie L. Libby

Title: County Administrator

Date: 12/2/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Hillsborough (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Hillsborough is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

    1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

    2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

        2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$37,936,703**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Chad Monier, County Administrator, Suite 114, 329 Mast Road, Goffstown, NH 03045

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of HILLSBOROUGH

Signature: [signature]

Print Name: TONI PAPPAS

Title: CHAIR, BOARD OF COMMISSIONERS

Date: 12/01/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.
2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.
3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.
5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Merrimack (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Merrimack is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

    1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

    2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

        2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$14,953,208**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Ross Cunningham, County Administrator, 333 Daniel Webster Highway, Suite #2, Boscawen, NH 03303

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: _____

Print Name: Henry D. Lipman

Title: Division Director

Date: 02/12/2021

County of Merrimack

Signature: _____

Print Name: Ross L Cunningham

Title: County Administrator

Date: 12/3/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Rockingham (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Rockingham is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$19,623,861**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Charles Nickerson, Finance Director, 119 North Road Brentwood, NH 03833

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Terry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of Rockingham

Signature: [signature]

Print Name: Kevin St. James

Title: Chair

Date: 12/16/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Strafford (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Strafford is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

    1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

    2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

        2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$10,332,883**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Raymond Bower, County Administrator, 259 County Farm Rd, Dover, NH 03820

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of STRAFFORD

Signature: [signature]

Print Name: Raymond F. Bower

Title: County Administrator

Date: 12/7/2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.
7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.
8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.
9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.
10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.

INTERGOVERNMENTAL AGREEMENT REGARDING

TRANSFER OF PUBLIC FUNDS

Nursing Home Per Diem and CFI Waiver Payments

This Agreement is entered into between the New Hampshire Department of Health and Human Services (the "Department") and the County of Sullivan (the "County") with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of RSA166:1-a (Reimbursement of Funds by the County) and RSA 167:18-a (County Reimbursement of Funds).

B. The County of Sullivan is a local governmental authority, located in the State of New Hampshire, with all the powers and duties outlined in RSA Chapter 23.

C. County governments are responsible for a portion of nursing home services and Choices for Independence (CFI) 1915c service expenditures.

THEREFORE, the parties agree as follows:

1. PURPOSE

1.1. The purpose of this Agreement is to set forth the procedures under which the County will transfer funds for use as the non-federal share of Per Diem Nursing Facility payments and CFI Waiver programs including mid-level care, home support, and home health under this Agreement. It is the intent of the parties that the procedures herein fully comply with all applicable federal and State laws, rules and regulations.

2. TRANSFER, ACCEPTANCE, AND DISTRIBUTION OF FUNDING

2.1. Monies transferred by the County and claimed by the Department as the non-federal share of Medicaid expenditures under this Agreement may only be distributed to eligible nursing facilities as Per Diem payments and to CFI Waiver programs including mid-level care, home support, and home health. The funds transferred from the County will be known as Intergovernmental Transfer ("IGT") funds.

2.1.1. Per Diem payments are made, in accordance with the payment methodology outlined in Exhibit A and the approved State Plan, to nursing facilities.

2.2. Consistent with the State Plan, the CFI Waiver, the methodology in Exhibit A, and all applicable federal and State laws, rules, and regulations, the Department shall use the IGT funds transferred by the County to the Department, as well as state general funds appropriated to the Department on the first day of each State Fiscal Year, to support the State's full claim for Federal Financial Participation (FFP) for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

2.3. The Department is responsible for compliance with the requirements of 42 CFR 433, Subpart B and for satisfying all Centers for Medicare and Medicaid Services (CMS) requirements regarding reporting, and adjusting claims for or reimbursing FFP, as necessitated by all applicable federal and state laws, rules, and regulations.

2.4. In July of each calendar year, the Department shall notify the County of the monthly amount of funds to be transferred via IGT.

2.5. For State Fiscal Year 2021, the County shall transfer **$5,403,304**.

2.6 No later than 45 days after receipt of the monthly invoice, the County shall transfer to the Department its net obligation in accordance with RSA 167:18-a and Exhibit A.. This amount shall be used for Per Diem Payments to eligible nursing facilities and waiver payments to CFI providers as outlined herein.

3. COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR STATE FINANCIAL PARTICIPATION

3.1. Upon transfer of funds, the County shall certify that:

3.1.1 The funds transferred qualify for federal financial participation, consistent with 42 C.F.R. Part 433, Subpart B, and that no portion of the funds transferred to the Department is derived from (1) direct or indirect provider-related donations (in cash or in kind), other than bona fide provider-related donations or (2) health care-related taxes, other than as permitted in Subpart B.

3.1.2 Consistent with 42 C.F.R. § 433.51(c), the funds transferred to the Department under this Agreement are not federal funds or are federal funds authorized by federal law to be used to match federal funds and are not recycled Medicaid payments. "Recycled Medicaid payments" are the federal, or non-federal dollars received as payments from New Hampshire Medicaid. Such dollars cannot be used as non-federal share funds to draw additional federal match. Examples of recycled Medicaid payments that shall not be used to constitute the non-federal share include MQIP

and ProShare payments.

3.2. The County agrees to provide the Department with supporting documentation of the sources of the funds transferred pursuant to this Agreement and of the basis for the County's assurance that the funds transferred comply with federal and State laws, rules, and regulations. If the County fails to provide the supporting documentation required under this Agreement, then the County agrees to remit, subject to the availability of funds and time frames required for any supplemental appropriation, to the Department, upon demand by the Department, the amount of the adjustment or disallowance that is attributable to sources that do not comply with this agreement. The Department will provide the County with a detailed explanation of the funds disallowed and reasons therefore.

3.3. If any funds transferred by the County are determined by the Department to be derived from provider-related donations or health care-related taxes, federal funds, or funds that otherwise do not meet the requirements of 42 C.F.R. Part 433, Subpart B, the County is responsible for making payment to the Department in the amount of the non-eligible funds transferred, subject to the availability of funds and time frames required for any supplemental appropriation.

3.4. To the extent that the County makes true, accurate, and transparent representations regarding the source of funds, and the source of funds complies with Sections 3.1 through 3.3 above, the Department shall be responsible for the validity of the state share of funds should CMS determine the funds were ineligible for FFP.

3.5. The Department shall not draw FFP, nor disperse any funds to eligible facilities, prior to receipt of non-federal share funds.

3.6. If the Department fails to comply with the requirements contained in this Agreement, such that CMS adjusts future grant awards to the Department, or defers or disallows any expenditures claimed by the Department, then the Department agrees that the County will not be subject to a recovery effort for the amount of the adjustment or disallowance that is attributable to the lack of compliance.

3.7. Providers will receive and retain earned payments in full, irrespective of source of funds. In the event county funds do not comply with Sections 3.1 through 3.3 above, the nursing facilities and CFI providers will not be subject to a recovery effort for payments lawfully earned. Providers shall receive and retain their earned payments in full.

4. General Provisions

4.1. Amendment. No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.1.1. The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in this Agreement.

4.2. Entire Agreement. With regard to the Per Diem payment and CFI waiver payments, this document, its exhibits and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement regarding Per Diem payments between the Parties, and supersedes all other understandings, oral or written.

4.3. No Third Party Rights. Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

4.4. Time. Time is of the essence in this Agreement.

4.5. Signatory Authority. Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4.6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the Department's powers, authorities, and duties under federal and State laws, rules, and regulations.

4.7. Approval. This Agreement is of no force and effect until signed by both parties.

4.8. Contract Term. This Agreement shall be effective upon execution for services from January 1, 2020 to of June 30, 2021. The parties anticipate, subject to renegotiation and approvals, and expect to renew an IGT Agreement annually hereafter.

4.9. Compliance with Laws, Rules and Regulations. The parties shall comply with all applicable federal and State laws, rules, regulations, standards and Executive Orders, in performance of this Agreement.

4.10. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's

age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement.

4.11. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

4.12. Choice of Law. The laws, rules, and regulations of the State of New Hampshire govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

4.13. Notice. Any notice required by the terms of the Agreement and any questions regarding the duties and obligations of this contract shall be directed to:

4.13.1. For the Department:

Henry D. Lipman, Medicaid Director, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

4.13.2. For the County:

Derek Ferland, County Manager, 14 Main Street, Newport, NH 03773

4.14. Records. The County agrees to retain all financial books, records, and other documents relating to the acquisition and performance of the Agreement for a period of seven (7) years after the completion of the Agreement. All records are subject to inspection and audit by the Department at reasonable times. Upon request, the County will produce a legible copy of any or all such records.

4.15. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

New Hampshire Department of Health and Human Services

Signature: [signature]

Print Name: Henry D. Lipman

Title: Medicaid Director

Date: 02/12/2021

County of SULLIVAN

Signature: [signature]

Print Name: DEREK R FERLAND

Title: COUNTY MANAGER

Date: 7 DEC 2020

EXHIBIT A

Per Diem and CFI Waiver Funding Methodology

1. The state share of Medicaid nursing facility Per Diem payments are supported from state general funds as well as county funds. The Per Diem cost components are summed/added together to obtain the total facility rate per day for each resident in the nursing facility as of a date specified by the Department. This rate is then reduced by a budget adjustment factor (BAF) as specified in the State Plan. After the close of the state fiscal year, all monies remaining in the nursing facility account, after the BAF is reconciled, are paid to nursing facilities based on their percentage of total Medicaid nursing facility expenditures.

2. The Department shall distribute an amount equal to the sum of 1) the Non-Federal Share transferred by the County under this Agreement, 2) applicable state appropriated funds, and 3) the corresponding FFP, to eligible nursing facilities as Per Diem Payments for nursing facility services provided during the service year and to CFI Waiver programs including mid-level care, home support, and home health. The Department shall make eligibility and distribution amount determinations for the services during the Service Year for Per Diem Payments and payments for CFI waiver programs including mid-level care, home support and home health consistent with all applicable federal and state laws, rules, and regulations and the terms of the State Plan, the CFI Waiver, and as further described in Exhibit A. Payments shall only be made to eligible providers.

3. After receiving the funds transferred by the County under this Agreement, the Department shall make Per Diem Payments to all eligible nursing facilities and waiver payments to CFI programs including mid-level care, home support, and home health, without any deductions or set offs.

    3.1. All payments shall be made within the time limits for the Department to file claims for FFP, as set forth in 45 C.F.R. Part 95, Subpart A, as interpreted by the United States Department of Health and Human Services Departmental Appeals Board.

4. Per Diem Payments are made in accordance with the approved State Plan. CFI payments are made in accordance with all applicable federal and state laws, rules, and regulations, and the CFI Waiver.

5. On July 1st, the first day of the State Fiscal Year, the Department has under its exclusive control, $5,000,000 appropriated from state general funds, to be used for payments to counties based on relative proportions of residents aged 65 and older who are Medicaid recipients. For State Fiscal Year 2021, an additional $9,721,305 was appropriated from state general funds to be used for nursing facility payments and CFI Waiver programs including mid-level care, home support, and home health.

6. The County's share of the non-federal share of Medicaid costs for nursing home Per Diem Payments and payments made under the CFI waiver is calculated in accordance with RSA 167:18-a based on a three (3) year average claim dollar. RSA 167:18-a sets a cap on the total billings to all counties for the fiscal year. This is known as the "county cap." The county's net obligation is the county cap adjusted for the $5,000,000 credit and any other appropriation by the legislature. Prior to July 31st, the Department will notify the County of the amount they will be invoiced monthly.

7. On a monthly basis, within 45 days of receipt of an invoice from the Department, each county transfers funds via an IGT to the Department to constitute the state share of the Per Diem payment (including any budget reconciliation payments) and CFI Waiver programs.

8. Beginning July 1, 2020, the Department will use funds from the $5,000,000 and the $9,721,305 coupled with available county IGT funds to constitute the state share of the Per Diem payment (including any budget reconciliation payments) as well as the other payments outlined in paragraph four (4) above.

9. The Department will monitor the weekly claims financial cycle. Should a situation arise where there are insufficient state or county funds available, claims will be fiscal pended until the following week when sufficient revenue is available. Claims will be paid in compliance with 42 CFR 447.45, Timely Claims Payment.

10. The Department will not draw FFP nor disburse any funds to eligible facilities prior to receipt of non-federal share funds.